

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT



JAN 11 2010

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OSARETIN IGHILE,

Plaintiff,

**ORDER**

**08 CV 450 (SLT) (LB)**

-against-

KINGSBORO ATC, et al,

Defendants.

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**BLOOM, United States Magistrate Judge:**

Plaintiff filed this *pro se* action on January 29, 2008, alleging that defendants discriminated against him in violation of his rights under Title VII of the Civil Rights Act of 1964. The Court held an initial conference on November 3, 2009. At the conference, the Court directed the parties to exchange initial disclosures and scheduled a status conference on January 7, 2010. Plaintiff failed to appear at the January 7, 2010 status conference, but instead, had a friend contact the Court and defendants' counsel to request an adjournment on the day before the scheduled conference.<sup>1</sup> This friend, Gretchen Young, appeared at the conference and informed the Court that plaintiff was out of the country. The Court advised Ms. Young that she could *not* appear in this case on plaintiff's behalf.

Plaintiff's failure to appear at the status conference or request an adjournment at least 48 hours prior to the conference is unacceptable. Rule 16(f) of the Fed. R. Civ. P. provides: "[o]n motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii) - (vii), if a party or its attorney . . . fails to appear at a scheduling or other pretrial

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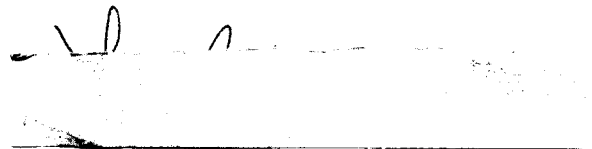
<sup>1</sup> On January 6, 2010, defendants' counsel informed the Court that she had received a telephone call that plaintiff was out of the country and would not be able to appear at the conference.

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conference; . . . or fails to obey a scheduling order or pretrial order.” Under Rule 37(b)(2)(A)(v), the Court may dismiss the complaint for a party’s failure to comply with a Court Order. See Fed. R. Civ. P 37(b)(2)(A) (“[T]he court where the action is pending may issue further just orders. They may include the following: . . . (v) dismissing the action or proceeding in whole or in part.”). This is plaintiff’s action to vindicate his rights. The conference in this case was scheduled since November. Plaintiff was present at the November conference and knew that the Court had ordered a conference on today’s date. The Court will not tolerate plaintiff’s failure to appear for a court ordered conference.

The Court will schedule another conference to give plaintiff a last chance to appear. The Court shall hold the conference on February 11, 2010 at 10:00 a.m. in Courtroom 11A of the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York. Plaintiff shall timely appear on February 11, 2010 and shall show good cause why he failed to appear on January 7, 2010. Plaintiff is warned that if he fails to timely appear on February 11, 2010 at 10:00 a.m. the Court will dismiss this action under Rule 16(f) and Rule 37(b)(2)(A). See Valentine v. Museum of Modern Art, 29 F.3d 47, 49 (2d Cir. 1994) (“The severe sanction of dismissal with prejudice may be imposed even against a plaintiff who is proceeding pro se, so long as warning has been given that noncompliance can result in dismissal.”).

SO ORDERED.



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LOIS BLOOM  
United States Magistrate Judge

Dated: January 7, 2010  
Brooklyn, New York